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14 *Attorneys for Plaintiff,*
15 *David Lawrence*

16
17 IN THE UNITED STATES DISTRICT COURT
18 FOR THE CENTRAL DISTRICT OF CALIFORNIA
19 WESTERN DIVISION
20

21 David Lawrence,

22 Plaintiff,

23 vs.

24 LVNV Funding LLC,

25 Defendant.

Case No.:

COMPLAINT

FOR VIOLATIONS OF:

**1. THE FAIR DEBT COLLECTION
PRACTICES ACT; AND
2. THE ROSENTHAL FAIR DEBT
COLLECTION PRACTICES ACT**

JURY TRIAL DEMAND

1 NOW COMES THE PLAINTIFF, DAVID LAWRENCE, BY AND
2 THROUGH COUNSEL, SARITA ORDONEZ, and for his Complaint against the
3 Defendant, pleads as follows:
4

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7 **JURISDICTION**

- 8 1. This court has jurisdiction under the Fair Debt Collection Practices Act
9 (“FDCPA”), 15 U.S.C. §1692k(d), 15 U.S.C. §1692k(d), Cal. Civ. Code
10 §1788.30(f) and 28 U.S.C. §§1331,1337.
11

12
13 **VENUE**

- 14 2. The transactions and occurrences which give rise to this action occurred in the
15 City of Hawthorne, Los Angeles County, California.
16
17 3. Venue is proper in the Central District of California.

18 **PARTIES**

- 19 4. Plaintiff is a natural person residing in the City of Hawthorne, Los
20 Angeles County, California.
21
22 5. The Defendant to this lawsuit is LVNV Funding, LLC (“Defendant”), a foreign
23 limited liability company that conducts business in the State of California.
24
25
26
27
28

GENERAL ALLEGATIONS

6. Defendant is attempting to collect a consumer type debt which is allegedly owed by Plaintiff to WebBank Fingerhut in the amount of \$1,841.00 (“the collection item”).
7. Defendant is reporting this collection item with a dispute comment.
8. Plaintiff no longer disputes the collection item.
9. On September 27, 2021, Plaintiff obtained his Equifax credit report. He noticed that Defendant was reporting the collection item with a dispute comment.
10. On or about October 8, 2021, Credit Repair Lawyers of America, on behalf of Plaintiff, sent Defendant a letter, informing it that the collection item was inaccurate and asking Defendant to remove the dispute comment from the collection item.
11. Defendant received Plaintiff’s letter on October 20, 2021.
12. On November 18, 2021, Plaintiff obtained his Equifax credit disclosure, which showed that Defendant last reported the collection item on November 3, 2021, and failed or refused to remove the dispute comment from the collection item, in violation of the FDCPA and Rosenthal Act.
13. Defendant’s failure to remove the inaccurate dispute remark makes the tradeline false and misleading to any user of the credit report. It also damages Plaintiff by preventing him from obtaining any mortgage loan or refinancing of the

1 same, as no conventional lender will grant a mortgage based on any credit
2 report that has any tradeline reported as disputed. Mortgage rates are now at
3 historic lows, and Plaintiff cannot participate in this market due to Defendant's
4 failure to remove the dispute notation.
5

6 14. In the credit reporting industry, data furnishers, such as Defendant,
7 communicate electronically with the credit bureaus.
8

9 15. Defendant had more than ample time to instruct Equifax to remove the dispute
10 comment from its collection item.
11

12 16. Defendant's inaction to remove the dispute comment from its collection item on
13 Plaintiff's credit report was either negligent or willful.
14

15 17. Plaintiff suffered pecuniary and emotional damages as a result of Defendant's
16 actions. His credit report continues to be damaged due to Defendant's failure to
17 properly report the associated trade line.
18

19 **COUNT I - VIOLATION OF**
20 **THE FAIR DEBT COLLECTION PRACTICES ACT**

21 18. Plaintiff reincorporates the preceding allegations by reference.

22 19. At all relevant times, Defendant, in the ordinary course of its business, regularly
23 engaged in the practice of collecting debts on behalf of other individuals or
24 entities.
25

26 20. Plaintiff is a "consumer" for purposes of the FDCPA, and the account at issue in
27 this case is a consumer debt.
28

1 21. Defendant is a "debt collector" under the FDCPA, 15 U.S.C. §1692a(6).

2 22. Defendant's foregoing acts in attempting to collect the collection item violated
3 the FDCPA at 15 U.S.C. §1692e:
4

5 a. 15 U.S.C. §1692e(2)(A) by falsely representing the character, amount,

6 or legal status of any debt by continuing to report the collection item
7

8 with a dispute comment after being informed of the inaccuracy: and

9 b. 15 U.S.C. §1692e(8) by reporting credit information which is known to
10

11 be false, including the failure to communicate that the collection item
12

13 is not disputed by failing to remove the inaccurate dispute comment
14

15 from the collection item after being asked to do so by Plaintiff.

16 23. Plaintiff has suffered harm and damages at the hands of Defendant, and this

17 harm was one that was specifically identified and intended to be protected
18

19 against on behalf of a consumer, such as Plaintiff, by Congress.

20 24. Defendant's failure to remove the erroneous dispute comment from its

21 collection item on Plaintiff's consumer credit file is annoying, humiliating, and
22

23 embarrassing to Plaintiff as it creates a false impression regarding his
24

25 creditworthiness.

26 25. To date, and as a direct and proximate cause of Defendant's failure to honor its
27

28 statutory obligations under the FDCPA, Plaintiff has suffered and continues to

suffer anxiety, embarrassment, humiliation, and stress.

1 26.Plaintiff has suffered economic, emotional, general, and statutory damages as a
2 result of these violations of the FDCPA.
3

4 **WHEREFORE, PLAINTIFF PRAYS** that this court grant him a judgment
5 against Defendant for actual damages, costs, interest, and attorneys' fees.
6

7
8
9 **COUNT II – VIOLATIONS OF THE ROSENTHAL FAIR DEBT**
10 **COLLECTION PRACTICES ACT, Cal. Civ. Code § 1788, et seq.**
11 **(“ROSENTHAL ACT”)**

12 18.Plaintiff incorporates by reference all of the above paragraphs of this complaint
13 as though fully stated herein.

14 19.Plaintiff is a “person” as defined by Cal Civ. Code § 1788.2(g).
15

16 20.Plaintiff is a “debtor” as defined by Cal. Civ. Code § 1788.2(h).

17 21.Defendant is a “person” as the term is defined by Cal Civ. Code § 1788.2(g).
18

19 22.Defendant, in the ordinary course of business, regularly, on behalf of itself or
20 others, engages in the collection of consumer debts, and is a “debt collector” as
21 defined by Cal. Civ. Code § 1788.2(c).
22

23 23.The Rosenthal Act was passed to prohibit debt collectors from engaging in
24 unfair and deceptive acts and practices in the collection of consumer debts.

25 24.Defendant's foregoing acts in attempting to collect this alleged debt violated the
26 following provisions of the Rosenthal Act:
27
28

1 a. Defendant did not comply with the provisions of 15 U.S.C. § 1692, *et*
2
3 *seq.*, in violation of Cal. Civ. Code § 1788.17.

4 25.Plaintiff was harmed and is entitled to damages as a result of Defendant's
5 violations.

6 26.Plaintiff has suffered economic, emotional, general, and statutory damages as a
7
8 result of these violations of the Rosenthal Act.

9
10 **WHEREFORE, PLAINTIFF PRAYS** that this court grant him a judgment
11 against Defendant for statutory damages, actual damages, costs, interest, and
12 attorneys' fees.

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14 **PRAYER FOR RELIEF**

15 Accordingly, Plaintiff requests that the Court grant him the following relief against
16 the Defendant:

- 17
18 A. Actual damages pursuant to 15 U.S.C. § 1692k(a)(1);
19 B. Statutory damages of \$1,000.00 pursuant to 15 U.S.C. §1692k(a)(2)(A);
20
21 C. Actual damages pursuant to Cal. Civ. Code § 1788.30(a);
22 D. Statutory damages of \$1,000.00 for knowingly and willfully committing
23 violations pursuant to Cal. Civ. Code § 1788.30(b);
24
25 E. Costs of litigation and reasonable attorneys' fees pursuant to 15 U.S.C.
26 § 1692k(a)(3) and Cal. Civ. Code § 1788.30(c);
27
28 F. Punitive damages; and

1 G. Such other and further relief as may be just and proper.
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3 **JURY DEMAND**

4 Plaintiff hereby demands a trial by Jury.
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10 DATED: March 31, 2022
11

12 By: /s/ Sarita Ordonez
13 Sarita Ordonez
14 Attorneys for Plaintiff,
15 David Lawrence
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